

Remarks

Claims 1-22 were pending.

Claims 14-22 are withdrawn.

Claim 2 is canceled.

Claims 1, 4, 6, 7, 12, 15 and 17 are amended.

Claims 1 and 3-13 are presented for reconsideration.

Claim 1 is amended to incorporate the limitation of claim 2. The claimed process now comprises the steps of reacting a sterically hindered aminoxide with an alk-1-ene followed by hydrogenation of the obtained product. The product obtained in the first step is an unsaturated amine ether (see for instance Example 1 on page 40 of the disclosure).

Claim 1 is also amended to state that the alkene is a C₆-C₁₈alk-1-ene. Support is in original claim 7. Support is also found on page 3, lines 15-16, where isomers of hexyl are defined as an alkyl group of E.

Claims 4, 6 and 7 are amended to be consistent with claim 1.

Claim 12 is amended to now depend on claim 1.

Claims 6, 15 and 17 are also amended to delete the phrase "e.g. z may be from the range 3-10,".

No new matter is added.

Claims 1-13 are rejected under 35 USC 103(a) as being obvious over Frey, et al., WO 03/045919.

Claims 1-13 are rejected under 35 USC 103(a) as being obvious over Hafner, et al., WO 01/92228.

Applicants respectfully rebut these rejections.

Both references very generically disclose the presently claimed process aimed at the reaction of a sterically hindered aminoxide with a C₆-C₁₈alk-1-ene in the presence of an organic hydroperoxide. Both references specifically disclose the reaction of cyclohexene with a hindered aminoxide in the presence of an organic hydroperoxide.

Applicants point out that surprisingly, the present process only affords two isomers. See for instance present Examples 1 and 5 on pages 40 and 43-44 of the disclosure. Only two isomers are found in these reactions. See also comparative Examples 4 and 7 on pages 42-43 and 45-46 of the disclosure. Three isomers are formed in the comparative Examples. Surprisingly, additional isomers are not formed in the present reaction.

In view of these surprising results, Applicants submit that these 35 USC 103(a) rejections are addressed and are overcome.

Claims 1-13 are rejected under 35 USC 103(a) as being obvious over Babiarz, et al., WO 00/21933 in view of Frey or Hafner.

Applicants respectfully rebut these rejections.

Babiarz teaches the reaction of two equivalents of an hindered N-oxyl compound with one equivalent of an hydrocarbyl compound. The product is one equivalent of an NO-hydrocarbyl compound and one equivalent of an NOH compound. The NOH compound must be recycled to the starting N-oxyl. See pages 3 and 4 therein and Example 16 on page 21.

Babiarz does not employ a peroxide in the reaction between the N-oxyl and the hydrocarbyl compound.

The present reaction does employ a peroxide in the first step and does not require any recycling of a side product. Thus, the presently claimed process is non-analogous to the one disclosed by Babiarz.

In view of this discussion, Applicants submit that these rejections are addressed and are overcome.

In view of all of the above, Applicants submit that each of the claim rejections are addressed and are overcome.

The Examiner is kindly requested to reconsider and to withdraw the present rejections.

Applicants submit that the present claims are now in condition for allowance and respectfully request that they be found allowable.

Respectfully submitted,



Tyler A. Stevenson
Agent for Applicants
Reg. No. 46,388

Ciba Corporation
540 White Plains Road
P.O. Box 2005
Tarrytown, NY 10591-9005
Tel. (914)785-2783
Fax (914)785-7102

Attachment: Petition for a 1 month extension of time